

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

SEAN PARNELL, GOVERNOR

550 WEST 7TH AVE., SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

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Decision of No Substantial New Information Susitna Basin Exploration Licenses

The process for issuing exploration licenses is described in AS 38.05.131-134, AS 38.05.035(e) and (g), and 11 AAC 82.903-.990. Following this process, the Alaska Department of Natural Resources (ADNR), Division of Oil and Gas (DO&G) issued the Susitna Basin Exploration Licenses Final Finding of the Director on September 25, 2003 (final finding). The director determined that issuing exploration licenses in the area is in the best interest of the state. On April 29, 2011, DO&G received a proposal for an exploration license within the Susitna Basin exploration licenses area.

Under Alaska statutes, a written finding is not required for exploration licenses for acreage subject to a best interest finding issued within the previous 10 years unless the ADNR commissioner determines that substantial new information has become available that justifies a supplement to the most recent best interest finding. On August 19, 2011, DO&G issued a Call for New Information regarding the proposed license. The Call for New Information provides interested parties an opportunity to submit any substantial new information that has become available since issuance of the final finding. The comment period ended on September 19, 2011.

In response to the Call for New Information, DO&G received comments from two state agencies: State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water, and the State of Alaska, Department of Fish and Game, Habitat Division. The comments are summarized below, along with the commissioner's response to each.

Based on comments and information received in response to the Call for New Information, the commissioner finds that there is no substantial new information that justifies a supplement to the final finding.

State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water Comments

- 1. Comment Summary:** The Division of Mining, Land and Water (DMLW) stated that there is new information regarding current and projected uses of the license areas, and that recent ADNR planning efforts may change uses of surface resources.

DMLW stated that the new Susitna-Matanuska Area Plan currently under development will alter the pattern of state-owned lands available for disposal.

Commissioner's Response: In his final finding, the commissioner relied on the 1985 Susitna Area Plan. ADNR area plans determine management intent, land-use designations, and management guidelines that apply to all state lands in the planning area. Portions of this plan are revised by the Southeast Susitna Area Plan and the Susitna-Matanuska Area Plan that encompasses the license area.

*"To responsibly develop Alaska's resources by making them available
for maximum use and benefit consistent with the public interest."*

On August 17, 2011, the commissioner issued the Susitna-Matanuska Area Plan. The plan establishes land use designations, management intent and management guidelines for nine million acres of state land in the Susitna and Matanuska river valleys. The plan became final on September 16, 2011, and it revises a portion of the 1985 Susitna Area Plan.

The purpose of the Susitna-Matanuska Area Plan is to direct "how the Alaska Department of Natural Resources will manage general state uplands and shorelands within the planning boundary". Chapter 1: Introduction and Background of the plan states that "...oil and gas development can occur throughout the planning area, although certain stipulations on these types of uses are proscribed in the Susitna Basin Recreation Rivers Management Plan."

In Chapter 2: Subsurface Resources, the plan states:

The planning and decision making processes for oil and gas development occur under a separate section of Alaska Statutes (AS 38.05.180) and these processes are not included as part of area plans. For this reason, the area plan does not make any development decisions related to these resources, and defers all decisions regarding licensing or leasing of oil and gas to DNR's existing licensing and leasing processes. Oil and gas sales are not subject to the regional planning process; instead they follow the planning process identified under AS 38.05.180. The land use designations of the plan are multiple use in character and do not preclude oil and gas development.

In the introduction to the mitigation measures, the final finding states that "lessees must comply with all applicable...current or future ADNR area plans...". In addition, the exploration area has mitigation measures that address potential surface use conflicts and access. These include mitigation measures I and III.

Therefore, because lessees must comply with ADNR area plans whether or not they are described in the best interest finding; because potential surface conflicts are sufficiently addressed with existing mitigation measures in the final finding; the Susitna-Matanuska Area Plan has been finalized; and because both the current plan and 1985 plan do not prohibit oil and gas licensing and defer all decisions regarding licensing or leasing of oil and gas to ADNR's existing licensing and leasing processes, the Susitna-Matanuska Area Plan does not constitute substantial new information that justifies a supplement to the final finding.

State of Alaska, Department of Fish and Game, Habitat Division (ADF&G) Comments

1. Comment Summary: References to DNR/OHMP should be changed to ADF&G

ADF&G asks that all references to Title 41 should be replaced with Title 16 and that any references to the Office of Habitat Management and Permitting (OHMP) should be replaced with the Alaska Department of Fish and Game (ADF&G).

Commissioner's Response: This is a purely administrative change that does not constitute substantial new information to justify a supplement to the most recent best interest finding. This and other updates will be made to the Susitna Basin Best Interest Finding during its 10-year rewrite.

Appendix B of the final finding provides a list of some of the laws and regulations pertaining to oil and gas exploration, development, production, and transportation. This appendix is not intended to be an exhaustive list of such laws and regulations, but rather is intended to bring to the attention of prospective licensees and the public that there are many additional state, federal, and local regulatory requirements with which licensees are obligated to comply. This is explained in detail in Chapter One, Section C of the final finding.

Therefore, although statutes have changed since the final finding was issued in 2003, licensees are required to comply with all current applicable state, federal, and local laws and regulations, and therefore, this comment does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

2. **Comment Summary:** *References on page 3-3 should be cross referenced with the most current updates to the anadromous waters catalog available in: Johnson, J. and P. Blanche. 2011 Catalog of waters important for spawning, rearing, or migration of anadromous fishes. Effective June 1, 2011. Alaska Department of Fish and Game, Special Publication No. 11-05, Anchorage. <http://gis.sf.adfg.state.ak/FlexMaps/fishresourcemonitor.html?mode=awc>*

Commissioner's Response: In the future, best interest findings will list the catalogued anadromous streams in the area and include a note that the Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes is annually updated. Although the comment provides updated information, it does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

3. **Comment Summary:** *Table 3.1 should be updated to include the presence of pike. Table 3.2 does not include the Tule or White-fronted goose.*

Commissioner's Response: Pike and the Tule or White-fronted goose are discussed in the text that accompanies the referenced tables. The commenter notes that they are not included in the respective tables. Although this is updated information, it does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

4. **Comment Summary:** *Mitigation measure A.9 (pg. 7-3). Fish screen criteria should be updated to reflect the current standard of a maximum water velocity of 0.5 feet per second.*

Commissioner's Response: Licensees are advised in Chapter Seven of the final finding that they "must comply with all applicable local, state and federal codes, statutes and regulations, as amended..." This statement requires licensees to follow current requirements to obtain permits and condition plans of operation, exploration, and development. In this case, a licensee must follow the current standards for obtaining a fish habitat permit, including the use of proper fish screens. Although this is updated information, it does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

5. **Comment Summary:** *It may be more appropriate to obtain nesting maps for bald eagle and trumpeter swans from US Fish and Wildlife Service than from ADF&G.*

Commissioner's Response: Although this is new information, it does not constitute substantial new information that justifies a supplement to the most recent best interest finding.

6. **Comment Summary:** *The mitigation measures regarding the Tule Goose habitat areas are numbered 14 and 15, not 15 and 16.*

Commissioner's Response: This is an administrative change that does not constitute substantial new information to justify a supplement to the most recent best interest finding. This and other updates will be made to the Susitna Basin Best Interest Finding during its 10-year rewrite.

Summary and Decision

The commissioner has considered comments received from the State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water, and the Department of Fish and Game, Habitat Division. The commissioner finds no substantial new information has been provided to justify a supplement to the most recent best interest finding for Susitna Basin exploration licenses.

A person affected by this decision who provided timely written comment may request reconsideration, in accordance with 11 AAC 02. Any reconsideration request must be received by the 20th day after issuance, and may be mailed or delivered to:

Commissioner
Alaska Department of Natural Resources
550 W. 7th Avenue, Suite 1400
Anchorage, Alaska 99501

By fax to 1-907-269-8918
or
By email to dnr.appeals@alaska.gov

If reconsideration is not requested by that date or if the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on the 31st day after the date of issuance. Failure of the commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any Department of Natural Resources regional information office.



Daniel S. Sullivan
Commissioner

cc: State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water
(DMLW)
State of Alaska, Department of Fish and Game, Habitat Division (ADF&G)